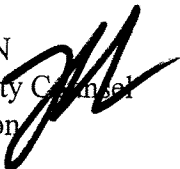


MEMORANDUM

November 29, 2004

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: RICHARD K. MASON
Principal Deputy County Counsel
Public Services Division 

RE: Settlement of Prelitigation Claim from The Institute of Applied Behavioral Analysis

DATE OF INCIDENT: April 2003 through November 2004

AUTHORITY REQUESTED: \$62,998

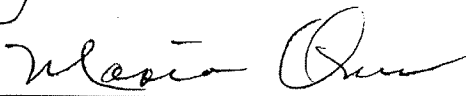
COUNTY DEPARTMENT: Mental Health

CLAIMS BOARD ACTION:

☒ Approve ☐ Disapprove ☐ Recommend to Board of Supervisors for Approval


_____, Chief Administrative Office
ROCKY ARMFIELD


_____, County Counsel
RAYMOND G. FORTNER, JR.


_____, Auditor-Controller
MARIA M. OMS

on December 22, 2004

SUMMARY

We are seeking authority to settle a claim submitted by the Institute for Applied Behavioral Analysis ("IABA") in the amount of \$62,998. IABA contracts with the Department of Mental Health ("DMH") to provide speciality mental health services to Medi-Cal patients. Because of delays and related problems with DMH's computer systems, IABA was not been paid for \$62,998 in services which it admittedly performed.

The computer system problems have been rectified and DMH will be working to obtain State reimbursement for the services provided. The extent of possible reimbursement is unknown, especially since some of the claims for service may be time barred. However, as IABA did, in fact, fulfill its obligations under its contract and the services were properly performed, DMH has determined that it is appropriate that IABA be reimbursed for services rendered, regardless of the extent of State reimbursement.

LEGAL PRINCIPLES

IABA contracts with the DMH to provide specialty mental health services. Pursuant to the contract, IABA submits claims for services rendered. These claims are processed by the County to the State for payment under the Medi-Cal program. Pursuant to its contract with IABA, the County is required to pay for mental health services properly and appropriately rendered and claimed by IABA. While the contract specifies that IABA is not entitled to reimbursement if a claim for service is denied by the State, it is implicit in the contract that the State's denial must result from an action or inaction of the contractor. For example, the County is not obligated to reimburse IABA for claims where the services were denied by the State as being inappropriate, unnecessary or inappropriately documented. However, in cases where the State's denial results from the County's failure to timely fulfill its contractual obligation of processing the claim, and is of no fault of IABA, a court most likely would conclude that the County is obligated to reimburse IABA for the services rendered.

SUMMARY OF FACTS

The Board approved a specialty mental health services contract with IABA, effective April 1, 2003. IABA has satisfactorily performed services under the contract since then, but has not been paid \$62,998 owed to it because of problems associated with the old and new DMH information systems, including the conversion to the new system.

It should be noted that IABA was also involved in a previous Claims Board matter, Rudy C. v. Long Beach USD and LACDMH, in which it was

reimbursed for specialty mental health services performed for DMH under a Purchase Order, when DMH's Purchase Order authority was exceeded. The Claims Board approved this earlier settlement in 2003, which led to the Board's approval of a contract with IABA.

DAMAGES

DMH agrees that IABA is contractually entitled to \$62,998 for speciality mental health services performed since April of 2003. Our office concurs.

STATUS OF CASE

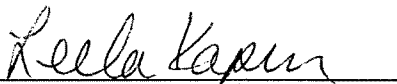
IABA initially asserted its claim orally, through discussions with DMH, and, in writing through a letter to DMH dated November 2, 2004. IABA has made it clear that it will file litigation if the issues are not resolved through settlement. DMH and our office agree that litigation would not be in the County's best interests and rather, this matter should be settled at the claim stage.

EVALUATION

This negotiated settlement is a reasonable and expeditious resolution of IABA's claims. Any State reimbursement will return to DMH to offset the cost of the settlement.

DMH respectfully requests the Claims Board's approval of this settlement.

APPROVED:



LEELA A. KAPUR

Assistant County Counsel
Public Services Division

LAK:if